IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 17490 of 2003

Between:

S.K. Khadar Basha, S/o. Jaffar Khan,
Plot No. 122/B, Industrial Area, Khammam District.

... PETITIONER

AND

1 The Forest Range Officer, Khammam District.
2 The Divisional Forest Officer, Khammam District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction mostly one which is in the nature of Writ of Mandamus declaring the Proceedings Rc. No. 6770/02/S2, dated. 29-05-2003 of the 2nd Respondent as illegal, irregular, arbitrary, unjustified, unconstitutional and unsustainable and set aside the same directing the respondents to grant the permission and license to the petitioner for the commissioning of a saw mill at Plot 122/B/IDA, Khammam District.

Counsel for the Petitioner: MR.P.VEERA REDDY

Counsel for the Respondents: GP FOR FORESTS

The Court made the following order:

ORDER:

Petitioner questions the order of the Divisional Forest Officer, Khammam, dated 29.05.2003 in rejecting the application of the petitioner for installation of the Saw Mill, in view of the judgment of the Supreme Court in WP. (Civil) No.202 of 1995.

It is the case of the petitioner that he has registered in the Industries Department for establishing of a Saw Mill in Plot No.122/B, I.D.A, Khanapuram Haveli, Khammam on 04.12.2000 and the District Industries Centre, Khammam issued a provisional Registration certificate and therefore, he is entitled to establish a Saw Mill in the said plot.

Honourable Supreme Court laid certain guidelines in the above judgment and imposed ban on opening of new sawmills. Any opening of a new sawmill must be approved by the Central Government and no private individual has any fundamental right to open a sawmill as a matter of right.

Respondents have filed a counter stating that the petitioner made an application to sanction permission to establish a sawmill on 05.12.2000. On the said application, the Forest Range Officer submitted a report to the second respondent stating that the approximate distance from the nearest Reserve Forest to the proposed sawmill site was

9.5 KM and informed the petitioner on 23.02.2001 that his application to sanction permission for sawmill cannot be considered as the existing sawmills located in Industrial Development Authority, Khammam are sufficient for public needs. Admittedly under Rule 3 (1) of the Andhra Pradesh Saw Mill (Regulation) Rules, 1969, no person shall install, erect or operate a sawmill, for cutting and converting of timber, without obtaining a licence, for such installation, from the licensing authority, under Rule 4 (2) of the said Rules. In the instant case, the licensing authority after receipt of the application made an enquiry and rejected the said application on 23.02.2001.

Petitioner made another application on 10.07.2001, which was also rejected on 09.09.2001 stating that the existing sawmills are sufficient to cater the inflow of Forest produce and also to cater to the needs of the public. Therefore, the said application was also rejected. Petitioner filed another application for the third time on 13.12.2002 along with a challan for Rs.1,000/- and requested for sanction of the sawmill, which was also dismissed on 28.05.2003, which is impugned in this writ petition.

It is specifically stated by the respondents that in view of the prohibitory orders passed by the Honourable Supreme Court in
WP (Civil) No.202 of 1995 prohibiting sanction of new licences, no new licence has been sanctioned in the entire State and the existing licences were granted prior to or during 1999.

Therefore, it cannot be said the petitioner was discriminated in the matter of grant of licence. In view of the aforesaid judgment of the Honuorable Supreme Court, I deem it appropriate that the petitioner is not entitled, as a matter of right, for sanction of sawmill licence and all his three applications have been rightly rejected by the respondents. Therefore, I am of the opinion that no statutory right of the petitioner has been violated entitling him to get sawmill licence as a matter of right.

Accordingly, the writ petition is dismissed. No costs.

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V. ESWARAIAH, J

March 16, 2005

Dsk

To

1 The Forest Range Officer, Khammam District.
2 The Divisional Forest Officer, Khammam District.

3 Two CCs to GP For Forests, High Court Buildings, Hyderabad (OUT)

4 Two CD Copies.